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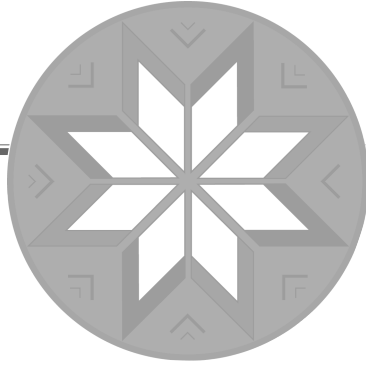
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Mi'kmaq—NOVA SCOTIA—CANADA  
**TRIPARTITE FORUM**

# **Fact Sheet**



## **MI'KMAQ - NOVA SCOTIA - CANADA TRIPARTITE FORUM**

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**Tripartite Forum Secretariat**  
**PO Box 1590, 57 Martin Crescent**  
**Millbrook First Nation, NS B2N 5V3**  
**Phone: (902) 895 • 6385 Fax: (902) 895 • 4857**  
**[www.tripartiteforum.com](http://www.tripartiteforum.com)**

The Mi'kmaq - Nova Scotia - Canada Tripartite Forum was formed in 1997 as a partnership between the Nova Scotia Mi'kmaq, the Province of Nova Scotia and the Government of Canada, to strengthen relationships and to resolve issues of mutual concern affecting Mi'kmaw communities. It is a strong vehicle in addressing issues that affect the lives of all Mi'kmaq living in Nova Scotia.

The Forum is comprised of the following committee levels - Executive, Officials, Steering and Working Committees. Each level has representation from each of the three parties: the Nova Scotia Mi'kmaq, The Province of Nova Scotia and The Government of Canada. All parties agree to work together without prejudice and by consensus to discuss and resolve issues of mutual concern.

### **EXECUTIVE COMMITTEE**

The Executive Committee is the highest level in the decision making process in the Tripartite Forum. Final decisions are made at this level with consensus from all members. Decisions can overrule present policy, change future policy, initiate and provide input to legislative change if necessary. All Tripartite committees require approval from the Executive Committee in their formation, mandate and resolutions.

#### **Composition:**

- Assembly of First Nations National Chief (ex-officio)
- Mi'kmaq Grand Chief
- Tripartite Forum Executive Chair
- Minister of Aboriginal Affairs and Northern Development Canada
- Nova Scotia Minister of Aboriginal Affairs
- 13 Nova Scotia Mi'kmaw Chiefs
- Other relevant provincial and federal ministers

### **OFFICIALS COMMITTEE**

The Officials Committee receives options and recommendations from the Working Committees and offers decisions within its authority and policy. The Officials Committee approves the Working Committees' mandates and provides direction as stated by the Executive Committee.

#### **Composition:**

- Tripartite Forum Executive Chair
- 13 Nova Scotia Mi'kmaw Chiefs
- President - Nova Scotia Native Women's Association
- Executive Director - The Confederacy of Mainland Mi'kmaq

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- Executive Director - Union of Nova Scotia Indians
- Regional Director General - Aboriginal Affairs and Northern Development Canada (Atlantic Region)
- Chief Executive Officer (CEO)/Deputy Minister - Nova Scotia Office of Aboriginal Affairs
- Other federal regional-directors and provincial deputy ministers

## **STEERING COMMITTEE**

The purpose of the Steering Committee is to focus on the overall relationship between the Mi'kmaq of Nova Scotia and the provincial and federal governments as it relates to issues being discussed within each of the Tripartite Forum's Working Committees. Its mandate is to provide organizational and operational support for the Tripartite Forum and to provide the three parties with a mechanism to resolve organizational and process issues related to the Forum.

## **WORKING COMMITTEES**

The Tripartite Forum includes seven (7) Working Committees. Each committee discusses issues, develops solutions, and suggests actions to resolve issues of mutual concern for Nova Scotia Mi'kmaq. Issues are identified through research and community concerns.

### **Composition:**

- Mi'kmaw representatives
- Provincial representatives
- Federal representatives

### **Working Committees:**

- Culture and Heritage
- Economic Development
- Education
- Health
- Justice
- Social
- Sports and Recreation

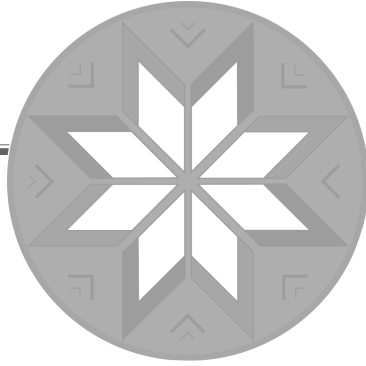
## **PROJECT FUND FOR SOCIAL AND ECONOMIC CHANGE**

The Project Fund was established with the intent to support projects and initiatives from the working committees' work plans that do not have access to other funding. The committee meets on a quarterly basis or more depending on necessity with all meeting dates set at the beginning of the year. Its membership includes three (3) Steering Co-chairs; one representative from the Province of Nova Scotia, one from the Government of Canada, and the Mi'kmaw representative. The Tripartite Forum Executive Chair is a non-voting committee member.

To approve funding of a project, a quorum of six (6) voting members must be present. For the committee to reach quorum, a designated alternative can be utilized in voting. For more information, contact Robyn Crowe, Project Fund Manager, at (902) 895-6385 or [robyn@tripartiteforum.com](mailto:robyn@tripartiteforum.com).

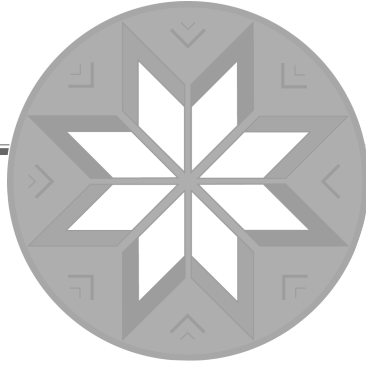
## **TRIPARTITE FORUM SECRETARIAT**

The Tripartite Forum Secretariat consists of two Administrators, the Project Fund Manager and the Communications Officer. The office is located at The Confederacy of Mainland Mi'kmaq in Millbrook First Nation, NS.



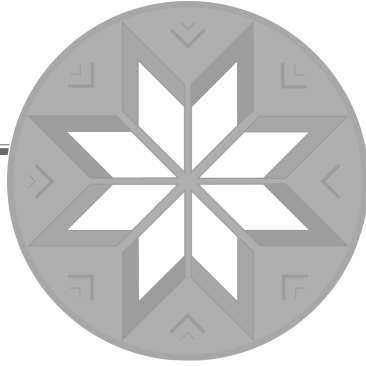
Mi'kmaq—NOVA SCOTIA—CANADA  
**TRIPARTITE FORUM**

# **Organizational Chart**



Mi'kmaq—NOVA SCOTIA—CANADA  
**TRIPARTITE FORUM**

# **Membership List**



Mi'kmaq—NOVA SCOTIA—CANADA  
**TRIPARTITE FORUM**

# **Orientation Checklist**

## **Orientation Check List**

- Write up on Tripartite Forum
- Write up on "Roles and Responsibilities of Member"
- Checklist for Organizations
- Write up on Web Site
- Tripartite Committee work should be reflected in organization job description (suggestion)
- Tripartite Forum Binder
- Last 2 copies of the committee's minutes
- Last 2 copies of the committee's agendas
- Introduction to internal Tripartite Forum members
- Review of "Roles & Responsibilities"
- Contact List
- Review last members files
- Review "Policies & Procedures" of the Tripartite Forum
- Important deadline dates

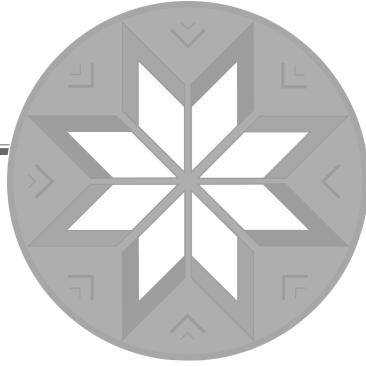
The above items can be found in the Tripartite Forum binder or on the Tripartite Web Site.

Please sign and date that you have reviewed everything on the checklist.

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_





Mi'kmaq—NOVA SCOTIA—CANADA  
**TRIPARTITE FORUM**

# **Conflict of Interest Policy**

## **Conflict of Interest Policy**

### **Definitions**

**Committee Member** - means a person who is a member of one of the Mi'kmaq – Nova Scotia – Canada Tripartite Forum (Tripartite Forum) Committees as set out in the committee membership lists held at the Mi'kmaq–Nova Scotia–Canada Tripartite Secretariat Office (57 Martin Crescent, Truro, NS);

**Family member** - means a spouse, parent, child, brother or sister; and

**Senior officer** - means the Band manager, Comptroller, Band Constable, senior staff member.

**Whereas** the members of the Tripartite Forum Steering Committee wish to provide guidance to its members in their decision making processes;

**Whereas** it is recognized that in carrying out the duties of their office members of the Tripartite Forum, or their family members, will, from time to time, have an interest in the matters being considered by the Tripartite Forum;

**Whereas** it is the preference that members of the Tripartite Forum not participate in decisions in which they or their family members have an interest, either real or perceived;

**THEREFORE BE IT RESOLVED** that the members of the Tripartite Forum, adopt the following guidelines to assist them in carrying out their duties:

- (1) Prior to any consideration of the matter at the meeting, Committee member must disclose the general nature of any real or perceived conflict of interest to the committee or forum;
- (2) The Committee Member must not take part in the discussion or vote on any question in respect of the matter;
- (3) The Committee Member will not attempt in any way to influence the voting on any question on the matter; and
- (4) The Committee Member will arrange their private interests in a manner that will prevent a conflict of interest, with any doubt in this respect being resolved in favour of the public interest.

### **Definitions of “Conflict of Interest”**

For purposes of this policy, conflict of interest may arise when an ‘interest in a matter’ (as defined below) could place on the committee member demands that are inconsistent with his or her official duties and responsibilities or call into question the member’s capacity to perform his or her official duties and responsibilities objectively.

For purposes of this policy, an ‘interest in a matter’ is defined as:

(A) A business relationship with a project proposal being reviewed by the Committee, as a partnerships, as an employee, as a major shareholder, as a director, as a senior officer, or as the provider of services or advice to that proponent.

### **In the event of a declaration of “Conflict of Interest”**

(A) Where a meeting of the Tripartite Forum is open to the public, any declaration of interest by a Committee Member shall be recorded in the minutes of the meeting;

(B) Where member(s) of the Tripartite Forum who by reason of the provisions of this policy are in conflict of interest, he/she/they are required to abstain from voting.

(C) If a matter before the Tripartite Forum is such that the remaining members of the Tripartite Forum are not of sufficient number to constitute a quorum of the Tripartite Forum, the remaining members of the Tripartite Forum shall be deemed to constitute a quorum of the Tripartite Forum, if there are no fewer than two.

(D) Where a member of the Tripartite Forum is in doubt as to whether he or she has an interest in a matter to be considered by the Tripartite Forum, he or she may request that the Co-Chairs of the Committee determine whether he or she has an interest in the matter within the meaning of this policy.

(E) In the case that the matter is not resolved by the working committee co-chairs the matter will be referred to the Steering Committee, which will determine next steps for resolution.

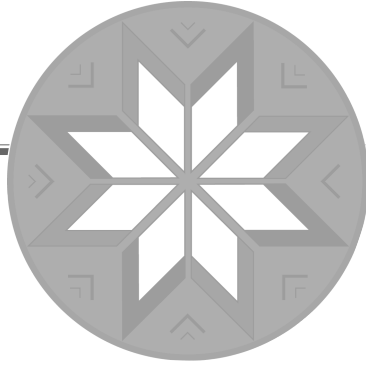
### **Accompanying Guidelines**

Members of the Tripartite Forum shall not:

- Accept any fees, gifts, gratuities or other benefit that could reasonably be seen to influence any decision made by him or her in the carrying out of his or her responsibilities as a member of the Committee;
- Use his or her position as a member of the Tripartite Forum for personal gain or for the personal gain of a family member;
- Use privileged information to which he or she may have access for personal gain or for the personal gain of a family member.

### **Amendments**

This policy may be amended from time to time as required at an Tripartite Forum Officials Committee meeting called for that purpose at which the majority present support the proposed amendments.



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# **Co-chairs Roles & Responsibilities**

## **Co-chairs Roles & Responsibilities**

### **Roles**

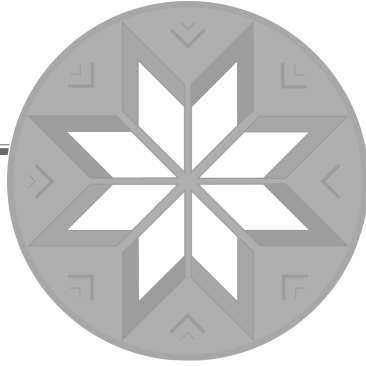
- Enhance the meetings with your expertise
- Work within your committee's budget
- Take turns chairing meetings and running the meetings in an orderly manner
- The Co-chair that will be chairing the next meeting should take the lead on preparing for the next meeting, by having the agenda and documents ready in a timely manner for the Secretariat. This will give everyone a clear understanding of who will be responsible for the meeting
- Work together with other Co-Chairs
- Attend all scheduled meetings (alternates do not apply)
- Attend Co-chairs strategic planning session(s)

### **Responsibilities**

- Check with Secretariat or the web site on meeting dates. This is to ensure that the date is available, as well as the Tripartite Administrator
- Inform the Secretariat of any invited guest and if any special equipment will be needed for presentations
- Inform the Secretariat of the location that you would like your meeting
- You may delegate tasks to committee members for preparations of a meeting, but the Co-Chairs are the ones who contact the Secretariat with the information (this eliminates too many people giving them different information)
- Distribute the workload within the working committee (requesting volunteers does not always work)
- RSVP your participation (policy for follow in the future)
- Prepare reports for the Officials and Executive Committees as needed
- Payment of travel (if applicable) for invited guest comes out of the committee's budget.
- The Chiefs and Executive Chair are not paid honorarium for attending committee meetings. They are paid regular travel and should be told this prior to the meeting (see above)
- Prepare committee submission for Tripartite Forums Annual Report (Jeff will edit & submit)
- Inform the Secretariat and the working committee of any changes in the Mi'kmaq, Provincial or Federal memberships
- Give a brief update to any new members on what the committee is currently working on (it is the responsibility of the organization to provide update and paperwork to their new members)
- Completing your operational work plan yearly
- Respond to request for your input on meeting suggestions etc.

## **Steering Committee Involvement**

- Assist the committee with questions that they may have regarding policies and budgets.  
Etc
- Address issues of mutual concerns as they may arise from time to time within the operation of the Forum
- Monitor the Forum's progress for the Officials and Executives Committees
- Assist the Secretariat in the preparing for the Officials, Executive, & Co-chairs meetings
- Focusing on the overall relationship between the 3 parties as it relates to the working committees



Mi'kmaq—NOVA SCOTIA—CANADA  
**TRIPARTITE FORUM**

# **Membership Policy**

## **Membership Policy**

### **POLICY STATEMENT**

The Mi'kmaq-Nova Scotia-Canada Tripartite Forum is committed to resolving issues of mutual concern among the three parties to the Forum. Committee membership should be reflective of the three Mi'kmaw organizations (The Confederacy of Mainland Mi'kmaq, Union of Nova Scotia Indians and Nova Scotia Native Women's Association) and the staff of Federal and Provincial departments and agencies. In addition, committees should ensure that the appropriate level of expertise is brought to committee discussions on a particular subject area.

This policy is consistent with the Tripartite Forum's Terms of Reference.

### **POLICY OBJECTIVE**

- (a) To provide Tripartite Forum Co-Chairs with direction on determining committee membership; and
- (b) To define the various types of involvement in committee business.

### **APPLICATION**

This policy applies to the following committees of the Forum:

- Culture & Heritage
- Economic Development
- Education
- Health
- Justice
- Social
- Sport and Recreation
- Steering Committee

### **DEFINITIONS**

**Committee Member** - Standing member of a committee nominated by one of the parties to the Tripartite Forum.

**Resource Person** - Individual with a particular expertise that can add value and provide advice to the committee's decision-making in a particular subject area.

**Observer** - An individual with an interest in a topic or subject area

**Official Party** – An Official Party to the Tripartite Forum is defined as the Government of Canada (as represented by Indian and Northern Affairs Canada), the Province of Nova Scotia (as represented by the Office of Aboriginal Affairs) and the Mi'kmaq of Nova Scotia (as represented by the 13 Mi'kmaq



Chiefs, The Confederacy of Mainland Mi'kmaq, Union of Nova Scotia Indians, and Nova Scotia Native Women's Association).

**Please Note:** The list of organizations in the definition of “Official Party” is not exclusive nor exhaustive. The Executive Committee has the sole authority to amend the list contained in the definition “Official Party” pursuant to the Tripartite Memorandum of Understanding and Terms of Reference.

## **POLICY DIRECTIVES**

### **Membership**

- a) **Representation** - There must always be at least one member from the federal government, the provincial government, the Union of Nova Scotia Indians, the Nova Scotia Native Women's Association and The Confederacy of Mainland Mi'kmaq.

The Steering Committee will be represented on each committee. These representatives are non-voting members that act as liaison between the working committees and the Steering Committee.

- b) **Expertise** - Each committee member should be selected for their expertise in a particular subject area or their decision-making authority or influence in effecting change.
- c) **Continuity** - Committee members are encouraged to attend all committee meetings.
- d) **Voting** - A committee member is entitled to vote while resource people and observers are not. Working Committees are encouraged to establish agreed to decision-making or voting protocols for the operation of their meetings.

e) **Adding/Replacing Members:**

- A co-chair identifies a need for a new or replacement member and contacts the official party;
- The official party nominates the addition or replacement and recommends this appointment in writing to the Executive Chair of the Tripartite Forum; and
- Copies of this correspondence are to be sent to the Steering Committee, for information purposes.

Although the size of the committee is dependent on how the committee organizes itself, a standing budget allocation of \$10,000 per committee places reasonable limitations on the size of membership.

It is recognized that each party has its own internal mechanisms for nominating replacement members for the Tripartite Forum.

f) **Removing Committee Members:**

- Co-Chairs identify the need to remove a committee member;
- The co-chair informs the organization's representative on the Steering Committee to indicate the concern;

- The Steering Committee member will attempt to resolve the matter internally and report back to the co-chair within a reasonable period;
- If this does not resolve the matter, the co-chairs will write a joint letter to the Executive Chair recommending removal of the Committee member; and
- Copies of this correspondence are to be sent to the Steering Committee, for information purposes

g) **Replacement of Co-Chairs** - When necessary, each party can recommend to the Executive Chair a new co-chair.

- The official party nominates the addition or replacement and recommends this appointment in writing to the Executive Chair of the Tripartite Forum; and
- Copies of this correspondence should be sent to the Steering Committee, for information purposes.

It is recognized that each party has its own internal mechanisms for nominating replacement co-chairs for the Tripartite Forum.

h) **Adding Resource Persons** - Committee co-chairs have the discretion to identify resource persons to provide support and advice to the committee. This discretion is limited by the available budget for the committee.

When a resource person is to attend a meeting, the co-chair should inform the administrative support person to ensure that appropriate meeting space and other logistical requirements are in place.

i) **Allowing Observers** - Committee co-chairs have the discretion to allow observers to attend committee meetings. These observers would not receive funding to support their travel. Committees are encouraged to open their meetings to the community where the meeting takes place.

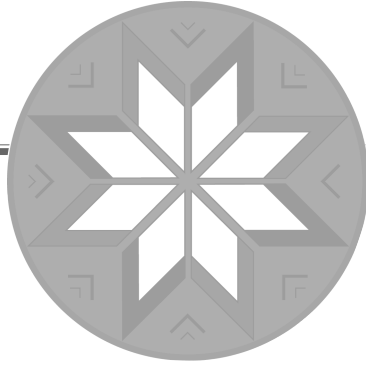
## **ACCOUNTABILITY**

The **Executive Committee** has final decision making authority on the scope of representation within the Tripartite Forum as set out in the Memorandum of Understanding and Terms of Reference for the Tripartite Forum.

The **Officials Committee** has authority to approve and amend this policy and responsibility to ensure that the policy is implemented.

The **Steering Committee** is responsible for the implementation and monitoring of this policy.

**Working Committee Co-Chairs** are responsible for adhering to this policy and have discretion within the confines of this policy and the committee budget to recommend the addition or removal of committee members, the appointment of resource persons or allow observers to committee meetings.



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# **Subcommittee Guidelines**

## **Subcommittees Guidelines**

### **Definition**

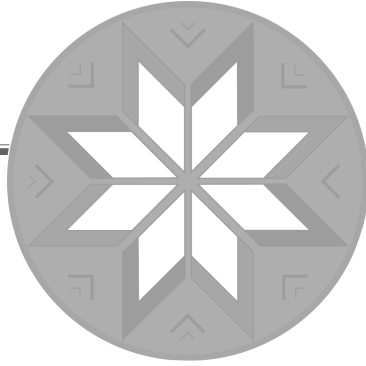
**Subcommittee** - special purpose group: a committee set up by and consisting of members or resource people of an existing committee to deal with a specific issue.

### **Policy Objective**

Provide guidelines and understanding to the role of subcommittees.

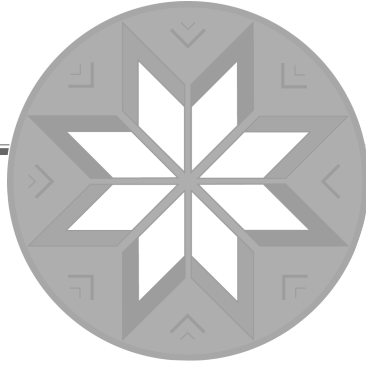
### **Policy Directives**

- a) Subcommittees will provide support to the working committees with regards to achieving goals on their work plan.
- b) Subcommittees can be formed as needed and can be disbanded at anytime as required by the working committee.
- c) Subcommittees can be made up of working committee members and resource people.
- d) It is the responsibility of the working committee co-chairs to decide if financial support will be provided to a subcommittee. This financial support comes from the working committee budget and will operate under the same guidelines as the Tripartite Forum travel guidelines.
- e) Subcommittees will report to the working committees on progress made from their meetings. This will ensure that the subcommittee work is reflected in the regular working committee minutes.
- f) Subcommittees will be responsible for all administrative requirements for their subcommittee meetings.



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# **Travel Guidelines**



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# **Working Committee Guidelines**

## **Working Committee Guidelines**

A proposed meeting schedule for the year should be made available to the Secretariat immediately following the first Working Committee meeting of the new fiscal year. There should be a minimum of two (2) meetings per year. One to prepare a work plan (prior to the Officials meeting), and another to report on the progress. Other meetings will be scheduled at the discretion of Co-chairs.

Co-chairs are requested to draft an expenditure plan with the Secretariat Administrator, outlining a proposed schedule of spending of the \$10,000 budget and the Administrator to expense funds accordingly.

It is not necessary to have all three Co-chairs in attendance to convene a meeting, however, there must be a quorum. A quorum consists of a representative from each part and 50% + 1% of the membership, but ultimately will be a decision of the Co-chairs to determine if the members present have the necessary resources to move the agenda items forward.

Notices of meetings are to be sent to committee members and the Secretariat Administrator, at least two (2) weeks prior to the proposed meeting date.

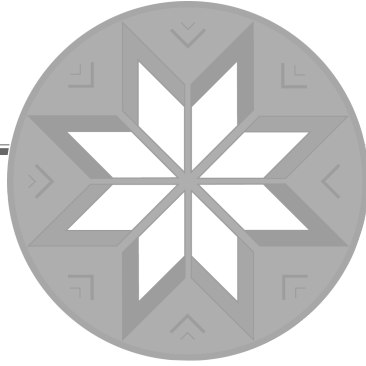
Notice of cancellation of a working committee meeting must be given to the Secretariat Administrator at least five (5) days prior to the proposed meeting date.

Committee members should send RSVPs to the Secretariat, at least five (5) days in advance of the meeting date.

Travel claims for committee members should be submitted to the Secretariat for payment within ten (10) days of the meeting date.

In the event of any changes in membership of the Working Committee, the Secretariat and the Steering Committee are to be advised of the change and the Tripartite Forum's Membership Policy should be followed.

Sub-committees of the Working Committees are requested to submit activity reports to the Co-chairs prior to the scheduled working Committee meetings. The onus will be on the Co-chairs of the Working Committee to obtain these reports.



Mi'kmaq—NOVA SCOTIA—CANADA  
**TRIPARTITE FORUM**

# **Memorandum of Understanding**



# Memorandum of Understanding

## MI'KMAQ - NOVA SCOTIA - CANADA TRIPARTITE FORUM

### MEMORANDUM OF UNDERSTANDING

BETWEEN: THE THIRTEEN MI'KMAW SAQMAQ  
(hereinafter known as "the Mi'kmaq of Nova Scotia")

and HER MAJESTY THE QUEEN IN RIGHT OF NOVA SCOTIA represented  
herein by the member of the Executive Council responsible for Aboriginal Affairs  
(hereinafter referred to as "Nova Scotia")

and HER MAJESTY THE QUEEN IN RIGHT OF CANADA represented herein by  
the Minister of Indian Affairs and Northern Development  
(hereinafter referred to as "Canada")

WHEREAS the Mi'kmaq of Nova Scotia, Nova Scotia and Canada have recognized the value of formal tripartite discussions between the federal and provincial Governments and the Mi'kmaq of Nova Scotia;

WHEREAS the Royal Commission on the Donald Marshall Jr. Prosecution recommended the establishment of a Tripartite Forum to mediate and resolve outstanding issues between the Mi'kmaq of Nova Scotia, Nova Scotia and Canada;

WHEREAS there are outstanding issues among Nova Scotia, Canada, and the Mi'kmaq of Nova Scotia including the inherent right to self-government, and treaty issues; and

WHEREAS the Mi'kmaq of Nova Scotia, Nova Scotia and Canada believe that it is desirable to participate in a Tripartite Forum to jointly discuss, investigate and negotiate measures that will assist in the resolution of issues of mutual concern between the Mi'kmaq of Nova Scotia, Nova Scotia and Canada.

#### THE PARTIES HERETO MAKE THE FOLLOWING COMMITMENTS:

- 1.0 The Parties agree to affirm a Terms of Reference for the Tripartite Forum which may be amended from time to time as agreed to by all of the Parties; (attached hereto as Appendix A).
- 2.0 The Parties shall by mutual agreement:
  - (a) jointly discuss, investigate and negotiate measures that will assist in the resolution of issues, matters and topics of mutual concern; and

- (b) establish work plans including time frame, manner of negotiation and resourcing on such issues, matters and topics.
- 3.0 The Parties agree that Canada and Nova Scotia shall share costs associated with the participation of representatives of the Mi'kmaq of Nova Scotia, as agreed to by all Parties.
- 4.0 The Parties agree that this Memorandum of Understanding shall not preclude and shall be without prejudice to:
- (a) any other discussions, either tripartite or bilateral, between the Mi'kmaq of Nova Scotia, or individual Mi'kmaq First Nation Bands and Nova Scotia or Canada on matters of mutual concern, or between any organization and Nova Scotia or Canada on matters of mutual concern; and
- (b) the positions which any of the Parties may adopt in any other forum.
- 5.0 The Parties agree that this Memorandum of Understanding is intended as an expression of goodwill and political commitment to enter discussions. It is not intended to either create, define or effect legal rights or to be construed as an interpretive aid in the determination of any legal right.
- 6.0 This Memorandum of Understanding shall come into force and effect on the date of its signature and shall continue in force and effect unless terminated by one or more of the Parties upon six months written notice to the other Parties hereto.
- 7.0 The Parties agree that nothing in this Memorandum of Understanding shall be so construed as to affect, prejudice, derogate or abrogate from Aboriginal, Treaty, Constitutional or any other rights, privileges or freedoms which have been accrued or which may accrue to the Mi'kmaq of Nova Scotia regardless of whether such rights, privileges or freedoms are acknowledged, established, recognized or defined before or after the signing of this Memorandum of Understanding.
- 8.0 (a) In the event of the withdrawal from this Memorandum of Understanding by one or more of the thirteen Saqmaq of Nova Scotia, said withdrawal shall be without prejudice to the continued operation of the Mi'kmaq - Nova Scotia - Canada Tripartite Forum. Saqmaq who have previously withdrawn, and any other Mi'kmaw Saqmaq may be added to the Mi'kmaq - Nova Scotia - Canada Tripartite Forum on agreement by all Parties to the same.
- (b) Notwithstanding Clause 8.0 (a), for the continued operation of the Mi'kmaq - Nova Scotia - Canada Tripartite Forum, seventy-five percent (75%) of the Mi'kmaq Saqmaq of Nova Scotia must be participating, and these Saqmaq must represent a majority of the total Band membership for Nova Scotia Mi'kmaq Bands.

SIGNED on behalf of the Mi'kmaq Bands of Nova Scotia, the Province of Nova Scotia and the Government of Canada this 2nd day of July 1997.

IN WITNESS HERETO:

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Ben Sylliboy  
Kji Saqmaw

ON BEHALF OF THE MI'KMAQ  
OF NOVA SCOTIA:

---

Saqmaw Deborah Robinson  
Acadia Band

---

Saqmaw Lawrence Toney Jr.  
Annapolis Valley Band

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Saqmaw Lindsay Marshall  
Chapel Island Band

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Saqmaw Shirley Clarke  
Horton Band

---

Saqmaw Lawrence Paul  
Millbrook Band

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Saqmaw Reginald Maloney  
Shubenacadie Band

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Saqmaw Morley Googoo  
Waycobah Band

ON BEHALF OF HER MAJESTY  
THE QUEEN IN RIGHT OF THE  
PROVINCE OF NOVA SCOTIA:

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Premier of Nova Scotia  
The Honourable John Savage

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Alexander Denny  
Kji Keptin

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Saqmaw Kerry Prosper  
Afton Band

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Saqmaw Frank Meuse  
Bear River Band

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Saqmaw Allison Bernard  
Eskasoni Band

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Saqmaw Terrance Paul  
Membertou Band

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Saqmaw Albert Denny  
Pictou Landing Band

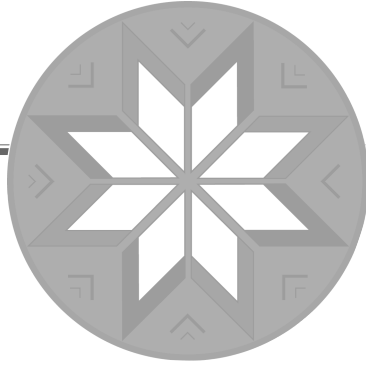
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Saqmaw Mary Louise Bernard  
Wagmatcook Band

ON BEHALF OF HER MAJESTY  
THE QUEEN IN RIGHT OF  
CANADA:

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Minister of Indian Affairs and  
Northern Development  
The Honourable Jane Stewart



Mi'kmaq—NOVA SCOTIA—CANADA  
**TRIPARTITE FORUM**

# **Terms of Reference**

**MI'KMAQ - NOVA SCOTIA - CANADA  
TRIPARTITE FORUM  
TERMS OF REFERENCE**

**1.0** WHEREAS the Mi'kmaq of Nova Scotia, Nova Scotia and Canada have entered into a Memorandum of Understanding (MOU); and WHEREAS the above stated Parties agreed to affirm a Terms of Reference as referred to in Clause 1.0 of that MOU.

THEREFORE be it agreed that the following are the Terms of Reference for the Mi'kmaq- Nova Scotia - Canada Tripartite Forum, as it shall be known.

**2.0** DEFINITIONS

**2.1** For the purpose of the Tripartite Forum, "Mi'kmaq" is inclusive of all members who are represented by the Thirteen Saqmaq of Nova Scotia, as documented within their respective Band lists.

**2.2** "Forum" or "Tripartite Forum" means the Mi'kmaq - Nova Scotia – Canada Tripartite Forum.

**2.3** "Parties" means the signatory Parties to the MOU, namely the Mi'kmaq of Nova Scotia, the Province of Nova Scotia and Canada.

**3.0** OBJECTIVES

**3.1** The purpose of the Tripartite Forum will be to discuss, investigate, negotiate and implement solutions to substantive issues of mutual concern and jurisdictional conflict between the Parties, which will include, but not be limited to, the inherent right of self-government.

**4.0** STRUCTURE

**4.1** The organizational structure of the Tripartite Forum shall be as follows:

- (i) The Executive Committee;
- (ii) The Officials Committee; and
- (iii) The Working Committees.

**5.0** EXECUTIVE COMMITTEE

**5.1** The Executive Committee consists of the following representatives:

- (a) The Mi'kmaq of Nova Scotia represented by Kji Saqmaq of the Mi'kmaq Grand Council and the thirteen Mi'kmaw Saqmaq of Nova Scotia;
- (b) Canada represented by the Minister of Indian Affairs and Northern Development, or by any other duly authorized Cabinet Minister; and
- (c) Nova Scotia represented by the Member of the Executive Council (Cabinet)

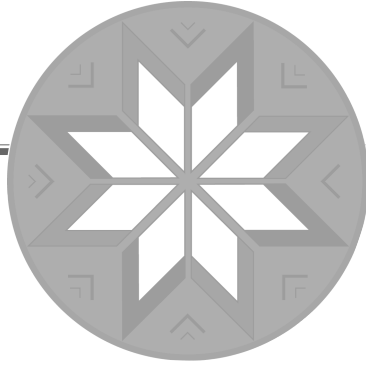
- responsible for Aboriginal Affairs, or by any other duly authorized Cabinet Minister.
- 5.2** The Executive Committee shall mandate the agenda, issues, parameters and direction of the Tripartite Forum.
- 5.3** The Executive Committee shall have the final decision making authority for the Tripartite Forum, and must approve all decisions arrived at by any other committee within the Forum.
- 5.4** The Executive Committee has sole and exclusive authority to amend the MOU or the Terms of Reference.
- 5.5** The Executive Committee shall make all decisions based upon the consensus of the Parties.
- 5.6** The Executive Committee shall address all issues referred to it by the Officials Committee.
- 5.7** The Executive Committee shall meet no less than once per calendar year.
- 6.0** OFFICIALS COMMITTEE
- 6.1** The Officials Committee shall consist of representatives from Mi'kmaq organizations as designated by the Mi'kmaq of Nova Scotia. The following organizations are eligible to become permanent members of the Officials Committee upon indicating to the Executive Committee their willingness to become so involved:
- (a) The Union of Nova Scotia Indians;
  - (b) The Confederacy of Mainland Micmacs; and
  - (c) The Native Women's Association of Nova Scotia.
- 6.2** The list of organizations in Clause 6.1 is not exclusive nor exhaustive. The Executive Committee has the authority to authorize participation at the Officials Committee, and has sole discretion to amend the list contained in Clause 6.1.
- 6.3** The Officials Committee shall also consist of senior officials designated by Nova Scotia and Canada from the relevant departments responsible for the issues of mutual concern being discussed, investigated or negotiated.
- 6.4** The Officials Committee shall coordinate, direct and assign activities based upon decisions made by the Executive Committee regarding agenda, issues, parameters and direction for the Tripartite Forum by setting out specific work plans, time frame, manner of discussion, investigation or negotiation and resourcing on all issues mandated by the Executive Committee.

- 6.5** The Officials Committee shall re view the work from all the established Working Committees, and make recommendations based on these reports to the Executive Committee either for ratification, resolution or clarification.
- 6.6** The Officials Committee shall make all decisions based upon majority assent, so long as the majority conforms with the following:
- (a) either Canada or Nova Scotia votes yes; and
  - (b) a majority of the participating organizations identified in Clause 6.1 vote yes.
- 6.7** All representatives to the Officials Committee voting against decisions made by the Officials Committee may prepare and present a dissenting argument to the Executive Committee by tabling said dissenting opinion within thirty (30) days with the Chair identified in Clause 8.1.
- 6.8** The Officials Committee shall meet no less than twice per calendar year.
- 7.0** WORKING COMMITTEES
- 7.1** A Working Committee may be established by the Officials Committee based upon a specific issue identified at the Executive Committee for discussion, investigation or negotiation.
- 7.2** A Working Committee shall be composed of anyone identified by a Party to the Executive Committee or the Officials Committee as having particular expertise regarding the issue involved.
- 7.3** A Working Committee shall provide the Officials Committee with practical reports and recommendations to fulfill the directions given by the Officials Committee, within the mandate adopted by the Executive Committee.
- 7.4** A Working Committee shall prepare an annual work plan and prepare semi-annual and annual reports, both to be ratified by the Officials Committee.
- 7.5** A Working Committee shall follow the voting and dissent procedure outlined in Clauses 6.7.
- 7.6** The Chair of the Working Committee shall adopt procedures to ensure compliance with these Terms of Reference.
- 7.7** A Working Committee on Finance and Administration shall always be a functioning Working Committee pursuant to these Terms of Reference.
- 8.0** CHAIR

- 8.1** An independent Chair shall be appointed by the Executive Committee to host and provide organizational requirements pursuant to these Terms of Reference to the Executive Committee and the Officials Committee. The Chair shall be responsible for the taking and distribution of minutes from these Committees. Upon receipt of a dissent as outlined in Clauses 6.7 and 7.5 the Chair shall forthwith provide the Parties to the Executive Committee, and the Chair of the Committee from which the dissent has been tabled, with copies of the same and an indication of the date of receipt of the dissent.
- 8.2** Each Working Committee shall have a Chair, recommended from the Officials Committee and approved by the Executive Committee, who is responsible for the operation of the Working Committee, and who shall report to the Officials Committee and, if so instructed, report to the Executive Committee.
- 9.0** FINANCES
- 9.1** The Parties agree to pursue the establishment of a multi-year funding arrangement for the Mi'kmaq -Nova Scotia - Canada Tripartite Forum.
- 9.2** In the interim, Canada and Nova Scotia shall share the operating costs of the Tripartite Forum as set out herein. The financial details and requirements of the Tripartite Forum must be approved and may only be amended by the Executive Committee.
- 9.3** Nova Scotia and Canada shall provide:
- (a) Funding to allow participation of the Mi'kmaq of Nova Scotia on the Executive Committee to:
    - (i) The Union of Nova Scotia Indians; and
    - (ii) The Confederacy of Mainland Micmacs.
  - (b) Funding to allow participation of the Mi'kmaq of Nova Scotia on the Officials Committee and the Working Committee to the organizations participating pursuant to Clause 6.1.
  - (c) Financial resources to support this element will be provided by Nova Scotia and Canada on a 50/50 basis, and shall include provision for the independent Chair as outlined in Clause 8.1.
- 9.4** Canada's share of the costs of the Tripartite Forum, including costs arising from Clause 9.6 herein, shall be subject to annual appropriations by Parliament and approval of the Federal Treasury Board, and that of Nova Scotia shall be subject to annual appropriations by the Legislature.
- 9.5** Funding may be provided for research and demonstration projects designed to assess the provisions of additional programs and services or to modify existing policies or procedures concerning the Mi'kmaq Community in Nova Scotia. Unless otherwise specified, financial resources to support this element shall be provided by Nova Scotia and Canada on a 50/50 cost-sharing basis.



- 9.6** Programs or services resulting from tripartite negotiations or initiatives shall be funded by the appropriate agencies pursuant to whatever agreements the Parties may agree to.
- 9.7** Existing terms and conditions of funding shall apply with regard to accountability and become part of the arrangement with the Party or Parties to which funds are disbursed.
- 9.8** Specific arrangements with organizations, agencies and individuals for project research funding shall also contain terms and conditions for funding accountability.
- 9.9** The fiscal year of the Mi'kmaq - Nova Scotia - Canada Tripartite Forum shall be from the period beginning April 1st of the current year to March 31st of the following year.
- 9.10** Financial Arrangements within these Terms of Reference do not prejudice alternative financial arrangements which may result from initiatives mandated by the Tripartite Forum.



MI'KMAQ—NOVA SCOTIA—CANADA  
**TRIPARTITE FORUM**

**Addendum to  
Memorandum of  
Understanding**

# Addendum

ADDENDUM TO  
MI'KMAQ - NOVA SCOTIA - CANADA  
TRIPARTITE FORUM  
MEMORANDUM OF UNDERSTANDING

BETWEEN: THE THIRTEEN MI'KMAQ SAQMAQ  
(Hereinafter referred to as "the Mi'kmaq of Nova Scotia")

and HER MAJESTY THE QUEEN IN RIGHT OF NOVA SCOTIA represented  
herein by the member of the Executive Council responsible for Aboriginal Affairs  
(Hereinafter referred to as "Nova Scotia")

and HER MAJESTY THE QUEEN IN RIGHT OF CANADA represented herein  
by the Minister of Indian Affairs and Northern Development  
(Hereinafter referred to as "Canada")

WHEREAS a Mi'kmaq - Nova Scotia - Canada Tripartite Forum Memorandum of Understanding was entered into by the Mi'kmaq of Nova Scotia, Nova Scotia and Canada (the "Parties") on the 2nd day of July, 1997 (the "Tripartite MOU");

WHEREAS the Parties wish to amend the Tripartite MOU by providing mutual undertakings with respect to the use of the Tripartite MOU outside of the Tripartite Forum process and the "without prejudice" nature of the discussions which form an essential part of that process;

**THE PARTIES HERETO MAKE THE FOLLOWING COMMITMENTS:**

1.0 The Tripartite MOU is hereby amended by adding thereto as a new article 9, the following:

9.0 The Parties agree that:

- (1) The Tripartite MOU is a statement of political intent and is not a legally binding or enforceable document.
- (2) The Parties undertake not to tender or seek admission of the Tripartite MOU into evidence in a court of law or in any administrative or regulatory tribunal or board.
- (3) All meetings, discussions, negotiations, minutes, audiotapes and videotapes

created, documents generated, and positions taken during the operation of the Tripartite Forum and any of the committees formed pursuant to the Tripartite Forum:

- (1) shall be on a "without prejudice" basis;
  - (1) shall be deemed not to create, define, alter or affect the legal rights or positions of any of the Parties;
  - (2) unless the Parties agree otherwise in writing, shall not be and shall not be construed to be consultation for the purpose of justification by Her Majesty for the infringement of any Aboriginal and treaty rights of the Mi'kmaq of Nova Scotia or any member of a Mi'kmaq Band under s.35 of the Constitution Act, 1982 or otherwise.
- (d) The Parties undertake not to tender or seek admission in a court of law or in any administrative or regulatory tribunal or board any evidence of meetings, discussions, negotiations, minutes, audiotapes or videotapes created, documents generated, and positions taken during the operation of the Tripartite Forum and any committees formed pursuant to the Tripartite Forum.
- (e) The benefit of article 9.0 shall accrue to, and the undertakings of the Parties shall apply in respect of all Mi'kmaq persons, all Mi'kmaq Indian Bands (First Nations) and their governing Chiefs and Councils, the Grand Council of the Mi'kmaq, the Union of Nova Scotia Indians, the Confederacy of Mainland Micmacs, the Nova Scotia Native Women's Association, Nova Scotia and Canada.

9.1 The Parties agree that any agreements reached during the operation of the Tripartite Forum, in writing and signed by the Parties, shall be binding, legally enforceable and admissible in a court of law or in an administrative or regulatory tribunal or board, as between the Parties to the agreement, according to the terms of the agreement.

SIGNED on behalf of the Mi'kmaq Bands of Nova Scotia, the Province of Nova Scotia and the Government of Canada this 19th day of June, 1998.

ON BEHALF OF THE  
MI'KMAQ OF NOVA SCOTIA:

\_\_\_\_\_  
Saqmaw Deborah Robinson  
Acadia Band

\_\_\_\_\_  
Saqmaw Kerry Prosper  
Afton Band

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Saqmaw John Toney  
Annapolis Valley Band

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Saqmaw Frank Meuse  
Bear River Band

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Saqmaw Lindsay Marshall  
Chapel Island Band

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Saqmaw Allison Bernard  
Eskasoni Band

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Saqmaw Shirley Clarke  
Horton Band

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Saqmaw Terrance Paul  
Membertou Band

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Saqmaw Lawrence Paul  
Millbrook Band

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Saqmaw Albert Denny  
Pictou Landing Band

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Saqmaw Reg Maloney  
Shubenacadie Band

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Saqmaw Mary Louise Bernard  
Wagmatcook Band

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Saqmaw Morley Googoo  
Waycobah Band

**IN WITNESS HERETO:**

**ON BEHALF OF HER MAJESTY  
THE QUEEN IN RIGHT OF  
THE PROVINCE OF NOVA SCOTIA:**

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Alexander Denny  
Kji Keptin

**ON BEHALF OF HER MAJESTY  
THE QUEEN IN RIGHT OF  
THE PROVINCE OF NOVA SCOTIA:**

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The Honourable Jane Stewart  
Minister of Indian Affairs and  
Northern Development

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The Honourable Don Downe  
Minister Responsible for Aboriginal Affairs  
- Province of Nova Scotia

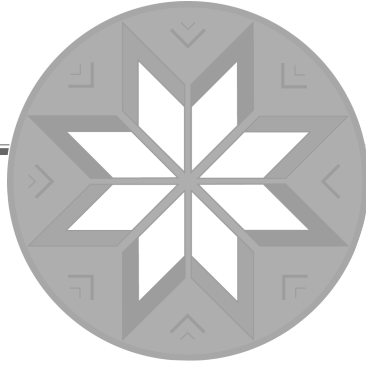
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John R. Brown  
Associate Regional Director General  
Indian Affairs and Northern Development

**IN WITNESS HERETO:**

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Allan Clark  
Aboriginal Affairs  
Province of Nova Scotia



MI'KMAQ—NOVA SCOTIA—CANADA  
**TRIPARTITE FORUM**

# **Report & Recommendations**

# Report & Recommendations

## A. BACKGROUND

Staff from the three Parties to the Tripartite Forum (Nova Scotia Mi'kmaq, Nova Scotia and Canada) were tasked at the February 9, 2000 Officials Committee meeting with the following:

WHEREAS the Officials Committee, February 9, 2000, has tabled representations from the Parties regarding the current Tripartite Forum structure and mandate; and

WHEREAS the Parties recognize that issues such as aboriginal title, land claims and treaty resource access have created issues of mutual concern subsequent to the formation of the Forum; and

WHEREAS the parties wish to assess the appropriateness of the current Forum to address these issues;

THEREFORE BE IT RESOLVED that the Parties will appoint representatives to form a Working Group mandated to evaluate the current Tripartite MOU, table concerns and issues regarding structure and mandate, and advise the Executive Committee as to appropriate options for resolution;

BE IT FURTHER RESOLVED that the Working Group will report to the Parties by March 9, 2000.

## B. MEMBERSHIP OF WORKING GROUP

Following the February 9, 2000 meeting, a Working Group was formed that included the following members:

Nova Scotia Mi'kmaq  
Eric Zscheile (CMM)  
Rosalie Francis (UNSI)  
JoAnne Sylliboy (NSNWA)

Nova Scotia  
(Office of Aboriginal Affairs)  
Richard Saunders  
Ernest Walker  
Gail Baikie

Federal Government  
(Indian & Northern Affairs Canada)  
Jules Hébert  
Harold Hines  
Debbi Adams

### Other attendees:

Paul Prosper  
Doug Brown

### Other attendees:

Joëlle Montminy  
Brian Keough  
Joe McNeil  
Paula Isaak

## C. SCOPE OF THE WORKING GROUP

Given the direction provided in the resolution, the Working Group examined the following areas in relation to the Tripartite Forum Memorandum of Understanding and Terms of Reference, mandate, structure and operation:

- Consultation
- Forum Structure
- Administrative Streamlining
- Funding

Numerous meetings of the Working Group were held through the year 2000/2001 to discuss the issues and identify possible solutions and recommendations that could be put forward to the Officials and Executive Committees of the Tripartite Forum. On the majority of issues discussed there was general agreement. The following Report represents the discussions that took place within the Working Group and includes a series of Recommendations to address the issues identified by each party. To date, the Report has also been sent to each of the Working Committees for comment and has also been discussed at a Co-Chairs Meeting held on November 9th, 2000. A number of positive comments were received from the Co-Chairs and Working Committees identifying critical issues to the future operation of the Tripartite Forum. These comments have been incorporated into this document, where relevant.

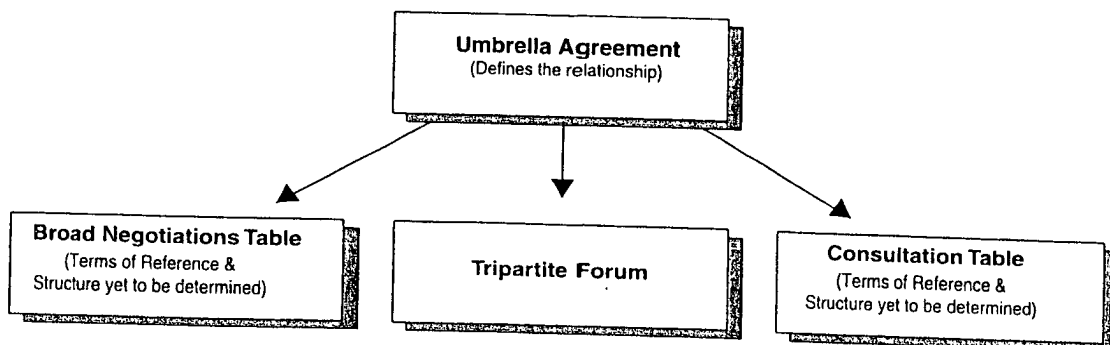
All Parties acknowledged that the landscape surrounding Government-Mi'kmaw issues in Nova Scotia has evolved significantly since the initiation of the current Tripartite Forum. On January 10, 2001, the thirteen Mi'kmaw Chiefs of Nova Scotia, the Minister of the Department of Indian Northern Affairs and Northern Development and the Minister Responsible for Aboriginal Affairs (Nova Scotia) released a Joint Statement of Intent and Reaffirmation. The Joint Statement indicates that:

The Parties are committed to working together to resolve mutual issues. As a vehicle to achieve this commitment, the Parties will draw upon three distinct elements of their relationship:

1. The existing Tripartite Forum, which is currently under review;
2. A broad negotiation process to consider issues of asserted Mi'kmaw Aboriginal rights including title and treaty rights; and
3. A consultation process.

These three elements of the relationship will form the basis for the preparation of a formal Umbrella Agreement to be signed by the Parties prior to March 1, 2001.

The following diagram illustrates the operation of the various tables to address these issues under an overall tri-party Umbrella Agreement:





## **D. WORKING GROUP RECOMMENDATIONS**

### **Consultation**

The current language in the Tripartite Forum does not allow for consultation unless agreed to in writing. All parties recognized that there is a need to consult on various issues. It was also recognized that consultation may be bilateral or trilateral in nature. In addition, all Parties recognized that the courts have defined specific examples of consultation, as it relates to particular issues that are before the courts. The Parties further recognized that different levels or types of consultation are required depending on the specifics of the consultation issue.

### **Recommendation #1:**

A Consultation Table Working Group be formed, outside the current Tripartite Terms of Reference, but under the Umbrella Agreement, with representatives from all three Parties.

### **Forum Structure**

Increased focus on negotiations, the increasing linkages between existing Working Committees, financial restraint from a provincial government perspective, the need for efficiency improvements identified by the federal government and the need for a more focused role for the Working Committees created a need to review the Forum structure and mandate. By removing issues such as title and treaty implementation, as well as streamlining the process, the hope is that the Forum can better fulfill its mandate by focusing on deliverable services at the community level. At the same time, however, links will be created between the Forum and the other tables to direct and coordinate activities within the Working Committees.

### **Recommendation #2:**

The following changes to the Tripartite Forum structure are recommended:

- **Working Committee Structure**

The Natural Resources, Self-Government and Treaty Working Committees will no longer be mandated for discussion within the current Tripartite Forum Terms of Reference. These discussions will take place in the parallel negotiation tables pursuant to the Umbrella Agreement. Subsequent to the establishment of the Tripartite Forum in 1997, the legal relationship between the Parties changed as a result of cases such as Delgamuukw and Marshall. This has allowed the Parties to focus discussion in this area.

The Culture and Heritage, Economic Development, Education, Health, Justice and Social Working Committees will remain unchanged.

'Sports and Recreation' has been identified as a significant issue that could be addressed within the Tripartite Forum. The Steering Committee (hereinafter referred to as the Steering Committee) will clarify how this issue will be addressed within the Forum.

Each Working Committee will be provided a budget for meeting and travel expenses. Working Committees will be required to meet a minimum of two times per year, once to develop work plans and once to report on progress within the Working Committee. Other meetings would be scheduled at the discretion of the Co-Chairs in consideration of their overall operating budget.

If costs exceed that budget, the three Parties within the Working Committee will be responsible for identifying additional resources to support the work of the Working Committee (see 'Funding' section of this Report for further details on the budget process).

- **Planning and Accountability Structure**

All parties agree that the current hierarchy of committee structures (Executive, Officials and Co-Chairs) is not working as effectively as possible and recommendations have been outlined which identify where improvements can be made.

- **Working Committees**

Current Working Committees will be provided increased responsibility for the overall planning of their Working Committees. They would be required to meet on an annual basis to prepare a strategic work plan for the upcoming fiscal year for consideration and direction from the Officials Committee. Working Committees, with support from the Tripartite Secretariat (see 'Administrative Streamlining' section of this Report for further details on the Tripartite Secretariat), would also be responsible for their annual operational budgets and the coordination of meetings and expenditures within that budget.

- **Co-Chairs**

Twice a year, the Co-Chairs will attend facilitated strategic planning sessions. The purpose of these sessions will be to ensure that the activities of the various Working Committees are coordinated and support one another, that any duplication of effort is avoided, and ensure an approach consistent with the objectives of the Forum. This dialogue will also serve as a guide for the preparation of each Working Committee's work plan. These sessions will also provide an opportunity for a consistent dialogue between the Forum activities and those of the rights-based negotiations and consultation tables. It is recommended that the scheduling of the Co-Chairs meetings occur in advance of the Officials Committee meetings for appropriate planning and preparation.

- **Officials Committee**

The Officials Committee will provide greater focus and direction to the activities of the Working Committees. This will be accomplished by identifying specific items from the strategic plan of each Working Committee as priorities for the upcoming fiscal year.

To ensure effective input to each Working Committee's strategic work plan and to facilitate the resolution of issues in a timely way, it is recommended that the Officials Committee be expanded to provide for participation of other relevant people. This may include other Deputy Ministers outside of Aboriginal Affairs, and other Regional Directors General, outside of INAC, who have a mandate specific to each of the Working Committees. It is also recommended that all of the Nova Scotia Chiefs participate within the Officials Committee to provide direction to the Working Committees. This group would meet three times per year (May/June, September/October and December/January) to provide input to and approve the strategic direction of the Forum and ensure that progress was being made by the Working Committees within the Forum. The timing for these meetings is premised on the budgeting and accountability processes that effect government programming. Following Officials Committee meetings, the Tripartite Secretariat will combine all Working Committee work plans

into one document to ensure effective communication on the overall annual strategy of the Tripartite Forum.

- **Steering Committee**

With the administrative functions of the Forum becoming centralized and the planning function becoming an increased responsibility of the Working Committees, the role of the Steering Committee will now become more focussed on the overall relationship between the Provincial Government, the Federal Government and the Mi'kmaq of Nova Scotia, as it relates to the substantive issues being discussed within each of the Working Committees. The role of the Steering Committee will be to discuss and recommend the core budgets of the participating Mi'kmaq organizations and the Tripartite Secretariat, assist the Tripartite Secretariat in preparing for Co-Chairs, Officials and Executive Committee meetings, address issues of mutual concern as they may arise from time to time within the operation of the Forum and monitor the Forum's progress for the Officials and Executive Committees.

To ensure effective dialogue and communication, a member of the Tripartite Secretariat will be a non-voting member of the Steering Committee.

- **Executive Committee**

The Executive Committee will meet on an annual basis.

- **Administrative Streamlining**

All Parties agree that the current administration of the Forum should be revised to increase efficiency. Most of the discussion on this point relates to the centralization of the administrative function into one organization - Tripartite Secretariat - rather than having it divided among three organizations.

### **Recommendation #3:**

The Working Committees take on additional responsibilities for calling meetings, preparing and circulating agendas, preparing work plans and providing reports to the Officials Committee on their activities. The Working Committee Co-Chairs will also be responsible to meet with the Tripartite Secretariat, to discuss and finalize their expenditure plan in relation to their operating budget.

A Tripartite Secretariat of the Tripartite Forum would:

- Provide logistical support & arrange Working Committees, Co-Chairs, Officials and Executive Meetings (e.g. arranging meeting space in communities);
- Administer the budget for the Forum including financial accountability of Working Committees' expenditures relative to their allocated budgets;
- Administer, liaise and provide support for the Executive Chair when necessary;
- Provide communication support (specifics to be defined later);
- Retain copies of all agendas, minutes and reports for all Committees;
- Prepare the annual report of the Forum;
- Circulate information to/from the three Parties and all Committees;
- Provide minute taking for all Working Committees, Co-Chairs, Officials and Executive Meetings;
- Combine all Working Committee work plans into one document to ensure effective

The Steering Committee will provide direction to the Tripartite Secretariat. Effective communication and dialogue between the Steering Committee and the Secretariat will be ensured through Secretariat attendance at all Steering Committee meetings.

The Tripartite Secretariat will be hosted, on an interim basis, by a participating Mi'kmaw organization. Ultimately, it will be housed with the Assembly of Nova Scotia Mi'kmaw Chiefs. Specific employer/employee matters will be the internal responsibility of the host organization.

### **Funding**

The parties recognized that the federal and provincial governments have different levels of fiscal capacity. The parties wish to avoid duplication of funding between the Forum and the negotiation process, and recognize that process funding related to the negotiation process will have an impact on the expenditure needs within Mi'kmaw organizations and related participation in Tripartite discussions.

### **Recommendation #4**

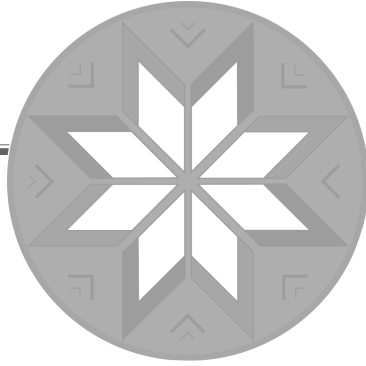
Each Working Committee be provided a budget allocation of \$10,000 per year to support travel and meeting costs. If costs exceed that budget, the three Parties within the Working Committee will be responsible for identifying additional resources to support the work of the Working Committee.

The Operating Budget for each Working Committee will be administered by the Tripartite Secretariat. The Secretariat will dialogue with the Co-Chairs to ensure that each Working Committee's annual expenditure plan is consistent with the policies of the Tripartite Forum.

Mi'kmaw organizational budget allocations will reflect one Tripartite Liaison position per organization; participation of leadership within Officials and Executive Committee meetings; and other costs agreed to by the Parties.

On an annual basis, each participating Mi'kmaw organization will prepare a budget and provide them to the federal and provincial governments prior to the appropriate Officials Committee for ratification.

Funding to support the Tripartite Secretariat will be provided by Canada and Nova Scotia (as described in 'Administrative Streamlining' section of this Report).



Mi'kmaq—NOVA SCOTIA—CANADA  
**TRIPARTITE FORUM**

# **Umbrella Agreement**

**MI'KMAQ — NOVA SCOTIA — CANADA**

**UMBRELLA AGREEMENT**

**MI'KMAQ — NOVA SCOTIA — CANADA  
UMBRELLA AGREEMENT**

BETWEEN:

THE MI'KMAQ OF NOVA SCOTIA as represented by the Thirteen Mi'kmaq Saqmaq  
("the Mi'kmaq of Nova Scotia")

– and –

HER MAJESTY THE QUEEN IN RIGHT OF NOVA SCOTIA as represented by the  
Minister responsible for Aboriginal Affairs  
("Nova Scotia")

– and –

HER MAJESTY THE QUEEN IN RIGHT OF CANADA as represented by the  
Minister of Indian and Northern Affairs  
("Canada")

Collectively referred to as "the Parties"

WHEREAS the Parties recognize the value of formal tripartite discussions;

WHEREAS the Parties believe it is desirable to jointly discuss, investigate and negotiate measures that will assist in the resolution of issues of mutual concern between the Mi'kmaq of Nova Scotia, Nova Scotia and Canada;

WHEREAS there are outstanding issues among the Parties including the inherent right to self-government, Aboriginal rights, including assertions of title, and treaty issues;

WHEREAS the Royal Commission on the Donald Marshall Jr. Prosecution recommended the establishment of a Tripartite Forum to mediate and resolve outstanding issues between the Parties;

WHEREAS recent court decisions such as *Delgamuukw* and *Marshall* have highlighted the importance of resolving issues of Aboriginal and treaty rights through negotiations;

WHEREAS the Supreme Court of Canada in *R. v. Marshall* has recognized the existence of Mi'kmaq rights pursuant to the Treaties of 1760-1761; and

WHEREAS the Parties wish to develop a process for consultation with respect to Aboriginal and treaty rights.

**THE PARTIES MAKE THE FOLLOWING COMMITMENTS:**

**GENERAL**

1. The Parties hereby agree to work together in good faith to resolve mutual issues. As a vehicle to achieve this commitment, the Parties will draw upon three distinct elements of their relationship:
  - a. the Tripartite Forum;
  - b. a broad negotiation process to consider constitutionally protected rights of the Mi'kmaq of Nova Scotia; and,
  - c. a consultation process.

**TRIPARTITE FORUM**

2. The Terms of Reference for the Tripartite Forum are currently under review through a joint effort of the Parties.
3. The Parties agree to reaffirm the Terms of Reference for the Tripartite Forum which may be amended from time to time as agreed to by all of the Parties.
4. The Parties agree that the mandate of the Tripartite Forum shall continue to be issues of community-based programs and projects and the Parties shall:
  - a. jointly discuss, investigate and negotiate measures that will assist in the resolution of issues, matters and topics of mutual concerns; and
  - b. establish work plans including time frames and resources on such issues, matters and topics.

**TREATY AND ABORIGINAL RIGHTS NEGOTIATIONS**

5. The Parties shall enter into good faith negotiations directed to achieving a Framework Agreement on Treaty and Aboriginal Rights Negotiations.
6. The Parties agree that the mandate of the Treaty and Aboriginal Rights Negotiations table shall include issues of definition, recognition and implementation of the constitutionally protected rights of the Mi'kmaq of Nova Scotia.
7. The Parties agree that the negotiation process and approaches adopted will be governed by the Framework Agreement. For greater certainty, the Parties agree that they will take into account the unique circumstances of the Mi'kmaq of Nova Scotia when developing their mandates and that their positions may differ from Canada's Comprehensive Land Claims Policy.



**CONSULTATION**

8. The Parties shall enter into good faith negotiations directed to achieving Terms of Reference for a Consultation Process.
9. The Terms of Reference for the Consultation Process shall address the nature of and the process regarding the requirement of governments to consult with the Mi'kmaq of Nova Scotia.

**INTERPRETATION**

10. Following ratification of the revised Terms of Reference for the Tripartite Forum and the Terms of Reference for the Consultation Process and the Framework Agreement for the Treaty and Aboriginal Rights Negotiations, these documents shall be appended to this Umbrella Agreement. These documents shall stand as independent arrangements according to the terms set out in each.
11. This Umbrella Agreement and related discussions and documents shall not be construed as admissions of fact or liability, and shall not preclude and shall be without prejudice to:
  - a. any other discussion, either tripartite or bilateral, between the Mi'kmaq of Nova Scotia, or individual Mi'kmaq First Nation Bands and Nova Scotia or Canada on matters of mutual concern, or between any organization and Nova Scotia or Canada on matters of mutual concern; and
  - b. the positions of the Parties before any other forum or court.
12. Except for Articles 11 through 16, the Parties agree that this Umbrella Agreement is not legally binding and is intended as an expression of goodwill and as a political commitment to enter into discussions. It is not intended to either create, define or affect legal rights or to be construed as an interpretive aid in the determination of any legal right.
13. The Parties agree, for greater certainty, to the following:
  - a. Except for the purpose of bringing this Article to the attention of a court, tribunal or board, the Parties undertake not to tender or seek admission of the Umbrella Agreement or of the specific content of meetings, discussions, negotiations and positions taken during the operation of the Umbrella Agreement, as evidence in a court of law or in any administrative or regulatory tribunal or board.

- b. Unless the Parties agree otherwise in writing, all meetings, discussions, negotiation, minutes, audiotapes and videotapes created, documents generated, and positions taken during the operation of this Umbrella Agreement up to the ratification of the Terms of Reference for the Tripartite Forum and the Consultation Process and the Framework Agreement for the Treaty and Aboriginal Rights Negotiations:
  - i. shall be on a "without prejudice" basis;
  - ii. shall be deemed not to create, define, alter or affect the legal rights or positions of any of the Parties; and
  - iii. are not intended to examine specific Aboriginal or treaty rights, and are not intended to be consultation for the purpose of justification by Her Majesty for the infringement of any such rights of the Mi'kmaq of Nova Scotia or any member of a Mi'kmaq Band under s.35 of the *Constitution Act, 1982* or otherwise.
- c. Notwithstanding any other provision of the Umbrella Agreement, any Party may refer to publicly and may lead evidence regarding the Parties, date of operation, existence and purpose of this Umbrella Agreement and the frequency of and participants in meetings held pursuant to its operation before a court, regulatory tribunal, board or similar body.
- d. The benefit of Article 13 shall accrue to, and the undertakings of the Parties shall apply in respect of all thirteen Mi'kmaq Indian Bands and their governing Chiefs and Councils and membership, the Union of Nova Scotia Indians, the Confederacy of Mainland Mi'kmaq, Nova Scotia and Canada.

#### **COMING INTO FORCE / TERMINATION**

- 14. This Umbrella Agreement shall come into force and effect on the date of its signature and shall continue in force and effect unless terminated by one or more of the Parties upon six months written notice to the other Parties hereto.
- 15. Notwithstanding Article 14.0 of this Umbrella Agreement, provision may be made within the Tripartite Forum Terms of Reference, the Treaty and Aboriginal Rights Negotiations Framework Agreement and the Consultation Process Terms of Reference for termination of those specific processes.
- 16. Notwithstanding Article 14, the agreements, understandings, undertakings and commitments set out in Articles 11 to 13 shall continue in effect unless the Parties otherwise agree in writing.

Signed at Halifax, Nova Scotia, the      Day of June 2002.

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Chief Diana Deborah Robinson  
ACADIA BAND

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Witness

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Chief Michael Gerard Julian  
AFTON BAND

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Witness

\_\_\_\_\_  
Chief Lawrence Leo Toney  
ANNAPOLIS VALLEY BAND

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Witness

\_\_\_\_\_  
Chief Sherry Mae Pictou  
BEAR RIVER BAND

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Witness

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Chief Lindsay Robert Marshall  
CHAPEL ISLAND BAND

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Witness

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Chief Blair Francis  
ESKASONI BAND

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Witness

\_\_\_\_\_  
Chief Shirley Marie Clarke  
GLOOSCAP FIRST NATION

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Witness

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Chief Ann Francis  
PICTOU LANDING BAND

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Witness

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Chief Terrance J. Paul  
MEMBERTOU BAND

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Witness

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Chief Lawrence A. Paul  
MILLBROOK BAND

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Witness

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Chief Reginald Maloney  
SHUBENACADIE BAND

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Witness

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Chief Mary Louise Bernard  
WAGMATCOOK BAND

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Witness

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Chief Morley Googoo  
WHYCOCOMAGH BAND

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Witness

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The Honourable Michael G. Baker  
MINISTER OF ABORIGINAL AFFAIRS

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Witness

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The Honourable Robert D. Nault  
MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

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Witness